

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DUESENFELD GMBH,)	
)	
Plaintiff,)	
)	C.A. No. 23-1194-JFM
v.)	
)	JURY TRIAL DEMANDED
ASCEND ELEMENTS, INC.,)	
)	
Defendant.)	

**DEFENDANT ASCEND ELEMENTS’ MOTION TO EXPEDITE BRIEFING ON ITS
MOTION TO STAY PENDING *INTER PARTES* REVIEW**

Defendant Ascend Elements, Inc. (“Ascend”) respectfully requests that this Court address on an expedited basis Ascend’s concurrently filed Motion to Stay Pending *Inter Partes* Review (the “Motion to Stay”) and stay all deadlines in this matter pending the Court’s decision on the Motion to Stay. Expedited briefing and resolution is appropriate to conserve resources that the Court and the parties would otherwise unnecessarily expend. As detailed in Ascend’s Motion to Stay, the Patent Trial and Appeal Board’s recently instituted two separate petitions for *Inter Partes* Review, each of which challenges the validity of all patent claims asserted in this case. (*See* Ascend’s concurrently filed Memorandum of Law in Support of Defendant Ascend Elements’ Motion to Stay Pending *Inter Partes* Review at 4.) Ascend believes that this Court is highly likely to grant its motion to stay, at least because (1) the IPRs are likely to simplify, if not entirely eliminate, the issues for trial in this case; (2) this case is at a relatively early stage, and therefore the potential for saving party and judicial resources is significant; and (3) Duesenfeld does not compete with Ascend, and therefore can be adequately compensated by monetary damages (if any), and will not suffer any undue prejudice or tactical disadvantage from a stay. (*Id.* at 2-4.)

Although nearly four months remain in the fact discovery period—which ends on March 21, 2025—Duesenfeld is pushing to begin taking depositions of Ascend’s fact witnesses in the coming weeks. Expedited resolution of Ascend’s Motion to Stay in Ascend’s favor would avoid unnecessary expenditure on these depositions and other fact discovery. Alternatively, even if the Court were to resolve Ascend’s Motion to Stay in favor of Duesenfeld on an expedited basis, plenty of time would remain in fact discovery to conduct depositions at that point. Accordingly, expedited briefing will promote efficiency and will not prejudice Duesenfeld.

Expedited briefing is further appropriate to compensate for Duesenfeld’s significant delays during the meet and confer process. Namely, on November 15, Ascend previewed for Duesenfeld and this Court that it would move to stay this action if and when IPRs were instituted. (D.I. 64, 66.) On Friday, November 22, the same day that Ascend’s IPR Petition was instituted, Ascend notified counsel for Duesenfeld that it would move to stay, and requested that Duesenfeld provide its position on the motion and its availability to meet and confer by Monday, November 25. Although counsel for Ascend repeatedly followed up, Duesenfeld declined to provide its position on Ascend’s proposed stay, let alone its availability to meet and confer, until Monday, December 2, *ten days later*.

Pursuant to Local Rule 7.1.1, Ascend met and conferred with Duesenfeld about both Ascend’s proposed stay and the relief sought in this motion on December 3. Duesenfeld indicated that it opposes both Ascend’s Motion to Stay and this motion for expedited briefing.

Ascend, therefore, respectfully requests that the Court address its concurrently filed Motion to Stay on an expedited basis, and order a response from Duesenfeld by Wednesday, December 11, a reply from Ascend by Monday, December 16, and a hearing (if any) at the Court’s earliest

convenience. Ascend further requests that the Court stay all deadlines in this matter pending the Court's decision on the Motion to Stay.

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

Andrew Gish
Ray Bilderbeck
Hilary Efron
Josef B. Schenker
Conor McDonough
Darla Subashi
GISH PLLC
41 Madison Avenue, Floor 31
New York, NY 10010
Tel: (212) 518-2000

By: /s/ Andrew M. Moshos

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Andrew M. Moshos (#6685)
Malisa C. Dang (#7187)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com
amoshos@potteranderson.com
mdang@potteranderson.com

Attorneys for Defendant Ascend Elements, Inc.

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